

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38721 of 2019

Arising Out of PS. Case No.-14 Year-2017 Thana- D.R.I District- Patna

Md. Nafees, son of Late Haji Moharram Ali @ Late Moharram Ali, Gender- Male, aged about 30 years, resident of House No. 9/642, Paniganv, P.S.- Indira Nagar, District- Lucknow (U.P.).

... .. Petitioner

Versus

The Union of India through the D.R.I. Regional Unit, Patna

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Jha Vikram, Adv. Mr. Mukund Kumar, Adv.
For the Opposite Party/s	:	Mr. S.D. Sanjay (ADD.SG) Mr. R.K. Sharma, C.G.C.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 07-08-2019 Heard Sri Jha Vikram, learned counsel, assisted by Sri Mukund Kumar, learned counsel for the petitioner and Sri S.D.Sanjay, learned Addl. Solicitor General, assisted by Sri R.K.Sharma, learned Central Government Counsel.

This is second attempt for grant of bail on behalf of the petitioner. Earlier, on 16.05.2018, the prayer for bail of the petitioner was rejected, vide Cr.Misc.No.27719 of 2018, considering seriousness of accusation that in the case, there was recovery of 6 Kilogram of *Heroin* and as per market value, cost of Heroin, as submitted, was more than Rs.18 Crores. It was noticed that consignment was to be delivered to the petitioner.

The petitioner is in custody in Complaint Case No.14



of 2017 registered for the offence under Sections 21, 23, 25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

The petitioner has renewed his prayer for bail primarily on the ground that after rejection of the prayer for bail of the petitioner, one of the accused, namely, Ram Kishore has been granted bail by a co-ordinate Bench of this Court, vide order dated 24.04.2019 passed in Cr.Misc.No.7069 of 2019.

Learned counsel for the petitioner has argued that the petitioner is in custody since more than two years and, as such, he requests for grant of bail. It was informed by learned counsel for the petitioner that before the court below, charge has already been framed.

Sri S.D.Sanjay, learned Addl. Solicitor General, Govt. of India, opposing the prayer for bail, has argued that petitioner's case is not similar to the accused, who has been granted bail. Besides this, it has been argued that once the prayer for bail of the petitioner was rejected on merit, without any change in the circumstance, second bail petition may not be entertained.

Besides hearing learned counsel for the parties, I have also examined the material on record as well as the order dated 24.04.2019 passed in Cr.Misc.No.7069 of 2019 (Ram Kishore).



On perusal of the order dated 24.04.2019, it is evident that while co-accused was granted bail, the coordinate Bench was not informed about rejection of prayer for bail of this petitioner, vide Cr.Misc.No. 27719 of 2018. Moreover, grant of bail is discretionary jurisdiction of the Court.

Considering the fact that the prayer for bail of petitioner was earlier rejected, there is no reason to again entertain the same. The bail petition stands again dismissed.

Since the trial has already commenced and the petitioner is in custody for more than two years, while dismissing the bail petition, it is desirable to direct the court below as well as the prosecution to take all steps, so that the case may come to its logical end without unnecessary delay. It goes without saying that the prosecution will ensure production of the witnesses, as and when required by the trial court.

(Rakesh Kumar, J.)

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